IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION.

WRIT PETITION NO. 9507 OF 2004

Smt. Mary Martin D'Mello ..... Petitioner.

versus

Smt. Nafeesa Mohamed Iqbal Sayed..... Respondents.

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Ms. s.M.Dandekar for the petitioner.
Mr. S.D. Modak for the Respondent.

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CORAM ; R.M.S. KHANDEPARKAR, J.

DATED; 20TH DECEMBER, 2004.

P.C.;

1. Heard the advocates of the parties.

2. Rule. By consent returnable forthwith.

3. Petitioner challenges the orders passed by the courts below refusing the adjournments as well as the permission to cross examine the deponent on behalf of the respondent who has filed the affidavit along with the documents, as also refusal to issue direction to the respondent to furnish copies of the documents annexed to the affidavit. It is the contention of the learned advocate for the respondent, that the copies of such documents were already furnished to the petitioner at the time of service of summons along with the plaint. However the learned advocate for the

respondent is unable to point out any material in support of such contention nor there are records about such copies having been funrished to the petitioner. Admittedly, the respondent enclosed various documents along with the affidavit. In order to enable the advocate for the petitioner to cross examine the deponent effiectively it is obvious that the advocate would require copies of such documents along with the copy of affidavit. Being so, as the learned advocate for the respondent being willing to furnish the copies of the docuemnts, it is not necessary to deal with the various issues sought to be raised in the matter. Suffice to observe that the petitioner would be entitled to the copies of the documents annexed to the affidavit and the respondent shall furnish the same within a period of 15 days from today. On such copies being furnished the petitioner shall be entitled to cross examine the witness on behalf of the respondent who has filed the affidavit. Parties to appear before the trial court on 17-1-2005 at 11.30 for further proceedings in the matter. Trial court to allow the petitioner or his advocate to cross examine the witness
of the respondent who has filed the affidavit.

4. A sum of Rs. 3000/- out of the amount of Rs. 10,000/- deposited by the petitioner shall be paid to the respondent towards costs and the balance amount of

Rs. 7000/- shall be invested in any antionalised bank till disposal of the suit and it shall be at the disposal of the trial court to pass appropriate order in that regard at the time of final disposal of the suit.

5. Rule is made absolute accordingly. No further orders as to costs.

C.C. expedited.

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